

SIXTH JUDICIAL DISTRICT
LIMITED CIVIL AND SMALL CLAIMS
GARNISHMENT PROCEDURES
FOR LITIGANST NOT REPRESENTED BY AN ATTORNEY

NON-WAGE GARNISHMENT

NON-WAGE GARNISHMENT: You must fill out the forms before filing with the Clerk. Information you will need includes case title, case number, names and addresses of all parties, including the garnishee (usually a bank). It may be helpful to refer to the list of terms at the end of this document.

File with the Clerk of the District Court:

Form # 1.	Request for Garnishment	(2 copies)
Form # 2.	Order of Garnishment	(2 copies)
Form # 3.	Answer of Garnishee	(2 copies)
Form # 4	Instructions to Garnishee	(1 copy)

The Clerk of the District Court will issue the garnishment papers to whomever you indicated on your Request for Garnishment (usually the sheriff). The person delivering the papers to the garnishee must file a return with the Clerk, indicating when and how service was made. The Clerk of the District Court will send a copy to you.

When you receive the Return of Service that says the garnishee was served, you must mail by first class mail to the judgment debtor the following documents:

Form #5. **Notice to the Judgment Debtor**
Form #6. **Request for Hearing**

The garnishee should file an answer with the Clerk of the District Court within 10 days of service of the order of garnishment. The Clerk of the District Court will send you and the judgment debtor a copy of the answer of garnishee.

No sooner than 10 business days following the filing of the answer of garnishee, you should complete and present to the Clerk of the District Court (if the answer indicates the garnishee is holding money)

Form # 9. **Order to Pay**

After the judge signs the Order to Pay, the Clerk of the District Court will send a copy to the garnishee. The garnishee will then send the money to the Clerk of the District Court, who will forward it to you.

Revised 9/26/03

YOU MUST KEEP AN ACCOUNTING OF MONEY RECEIVED, INTEREST ACCRUED, AND BALANCE DUE. The Court may require you to produce your records in the event that an objection is filed to the garnishment or Answer of Garnishee.

When the judgment has been paid in full, please file:

Form #8. **Satisfaction of Judgment**

FORM PACKET ATTACHED: The first set of forms is provided for your use. Please make copies to file with the Court, and keep the originals for future use. Any additional copies will cost \$.25 per page. Updated forms are available on the internet at www.kscourts.org/council.

1. Request of Garnishment
2. Order for Garnishment with Return
3. Answer of Garnishee
4. Instructions to Garnishee
5. Notice to the Judgment Debtor
6. Request of Hearing
7. Release of Garnishment
8. Satisfaction of Judgment
9. Orders to Pay

TERMS:

Judgment Creditor - person to whom money is owed

Judgment Debtor – person who owes money

Litigant – person who is participating in a legal action

Clerk – Clerk of the District Court

Garnishee – person, company or bank that may hold money belonging to the judgment debtor

NOTE: These instructions are provided to assist you in collecting your judgment. They are not intended to be substituted for legal advice from an attorney. For specific questions regarding your case and the collection of the judgment, please contact your attorney.

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: First Class Mail ____; FAX____; EMAIL ____
Service by Sheriff____; party____; party's attorney ____

REQUEST FOR GARNISHMENT
(To Attach Other Than Earnings)

The judgment creditor requests that the court issue an Order of Garnishment (To Attach Other Than Earnings) for the judgment debtor named above in the amount of the judgment amount **of \$_____. Amount to be withheld (\$110%).

** The judgment amount is the current balance due and may also include costs, fees, interest and any other items included in the judgment.

If this Garnishment is to attach funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company, the amount to be withheld is indicated above, which is 110% of the amount of judgment creditor's claim, in the case of prejudgment garnishment, or 110% of the amount of the current balance due under the judgment, in the case of postjudgment garnishment.

I hold a good faith belief that the party to be served with this garnishment order has, or will have, assets of the judgment debtor(s).

Dated: _____

Judgment Creditor or Attorney

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: First Class Mail ____; FAX____; EMAIL ____
Service by Sheriff____; party____; party's attorney ____

REQUEST FOR GARNISHMENT
(To Attach Other Than Earnings)

The judgment creditor requests that the court issue an Order of Garnishment (To Attach Other Than Earnings) for the judgment debtor named above in the amount of the judgment amount **of \$_____. Amount to be withheld (\$110%).

** The judgment amount is the current balance due and may also include costs, fees, interest and any other items included in the judgment.

If this Garnishment is to attach funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company, the amount to be withheld is indicated above, which is 110% of the amount of judgment creditor's claim, in the case of prejudgment garnishment, or 110% of the amount of the current balance due under the judgment, in the case of postjudgment garnishment.

I hold a good faith belief that the party to be served with this garnishment order has, or will have, assets of the judgment debtor(s).

Dated: _____

Judgment Creditor or Attorney

Prepared by
Address
Address
Phone No.

In The District Court of **County, Kansas**
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: First Class Mail ____; FAX____; EMAIL ____
Service by Sheriff____; party____; party's attorney ____

ORDER OF GARNISHMENT
(To Attach Other Than Earnings)

To the above named Garnishee:

The attached Instructions to Garnishee are incorporated by reference. You are ordered as a garnishee to follow the attached instructions as if they were set forth in this Order.

If you are indebted to the judgment debtor, complete the attached Answer under penalty of perjury as set forth in the instructions.

If you are a bank, savings and loan association, credit union or finance company, and are holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to this order is not to exceed \$_____.

If you fail to complete and send your answer as required in the instructions, the judgment creditor may file a motion for judgment against you for the amount of judgment against the judgment debtor or such other amount as the court shall order, including the expenses and attorney fees of the judgment creditor.

Dated : _____ **BY ORDER OF THE COURT**

RETURN ON SERVICE OF GARNISHMENT ORDER

I hereby certify that I have served this garnishment order in the following manner:

(1) Personal Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following persons on the dates indicated:

_____, _____,
_____, _____,
(Name) (Date)

(2) Agent Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following agents authorized by appointment or by law to receive service of process on the dates indicated:

_____, _____,
_____, _____,
(Name) (Date)

(3) Service by Return Receipt Delivery. By causing to be delivered on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form by return receipt delivery to each of the following persons at the following address: _____

with such delivery made by the following person or entity: _____.
Attached hereto is a copy of the return receipt evidencing such delivery.

(4) Return Receipt Delivery Refused. By mailing on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form to each of the following persons at the following address: _____

(5) Mail Service. By mailing on the ____ day of _____, _____, a copy of the garnishment order, along with two copies of the answer form, by first class mail to each of the following persons at the following addresses: _____

(6) Telefacsimile communication. By faxing on the ____ day of _____, _____, at ____ o'clock _m., a copy of the garnishment order, along with two copies of the answer form, to the following persons:

Number of transmitting machine: _____
Number of receiving machine: _____

(7) Internet electronic mail. By e-mailing on the ____ day of _____, _____, at ____ o'clock _m., a copy of the garnishment order, along with a copy of the answer form, to the following persons at the following e-mail addresses: _____

Transmitting person's e-mail address: _____

(8) No Service. The following persons were not served:

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Signature, Sheriff or Process Server

Prepared by
Address
Address
Phone No.

In The District Court of **County, Kansas**
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: First Class Mail ____; FAX____; EMAIL ____
Service by Sheriff____; party____; party's attorney ____

ORDER OF GARNISHMENT
(To Attach Other Than Earnings)

To the above named Garnishee:

The attached Instructions to Garnishee are incorporated by reference. You are ordered as a garnishee to follow the attached instructions as if they were set forth in this Order.

If you are indebted to the judgment debtor, complete the attached Answer under penalty of perjury as set forth in the instructions.

If you are a bank, savings and loan association, credit union or finance company, and are holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to this order is not to exceed \$_____.

If you fail to complete and send your answer as required in the instructions, the judgment creditor may file a motion for judgment against you for the amount of judgment against the judgment debtor or such other amount as the court shall order, including the expenses and attorney fees of the judgment creditor.

Dated : _____ **BY ORDER OF THE COURT**

RETURN ON SERVICE OF GARNISHMENT ORDER

I hereby certify that I have served this garnishment order in the following manner:

(1) Personal Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following persons on the dates indicated:

_____, _____,
_____, _____,
(Name) (Date)

(2) Agent Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following agents authorized by appointment or by law to receive service of process on the dates indicated:

_____, _____,
_____, _____,
(Name) (Date)

(3) Service by Return Receipt Delivery. By causing to be delivered on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form by return receipt delivery to each of the following persons at the following address: _____

_____ with such delivery made by the following person or entity: _____.
Attached hereto is a copy of the return receipt evidencing such delivery.

(4) Return Receipt Delivery Refused. By mailing on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form to each of the following persons at the following address: _____

(5) Mail Service. By mailing on the ____ day of _____, _____, a copy of the garnishment order, along with two copies of the answer form, by first class mail to each of the following persons at the following addresses: _____

(6) Telefacsimile communication. By faxing on the ____ day of _____, _____, at ____ o'clock __.m., a copy of the garnishment order, along with two copies of the answer form, to the following persons: _____
Number of transmitting machine: _____
Number of receiving machine: _____

(7) Internet electronic mail. By e-mailing on the ____ day of _____, _____, at ____ o'clock __.m., a copy of the garnishment order, along with a copy of the answer form, to the following persons at the following e-mail addresses: _____

Transmitting person's e-mail address: _____

(8) No Service. The following persons were not served: _____

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Signature, Sheriff or Process Server

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: First Class Mail ____; FAX ____; EMAIL ____
Service by Sheriff ____; party ____; party's attorney ____

ANSWER OF GARNISHEE
(To Attach Other Than Earnings)

To be completed by the above named garnishee:

1. Read carefully the attached Instructions to Garnishee.
2. I was served with this garnishment on the ____ day of _____, ____.
3. I have not delivered to the judgment debtor any money or other intangible property belonging to him or her, other than earnings, since receiving the order of garnishment.
4. If I am a bank, savings and loan association, credit union or finance company, and I am holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by me pursuant to this order shall not exceed \$ _____.
5. **Money or Indebtedness Due.** I hold money or am indebted to the judgment debtor, other than for earnings, as of the date of this answer, in the following manner and amounts:

6. **To be answered by garnishee who is an executor or administrator of an estate.** I am an _____ of the estate of _____, containing funds or intangible property to which the judgment debtor is or may become entitled as a _____, and I understand that the order of garnishment has the effect of attaching and creating a first and prior lien on all such funds or intangible property to which the judgment debtor becomes entitled upon distribution to the estate and that I am prohibited from delivering to the judgment debtor any such funds or intangible property until further order of the Court from which the order of garnishment was issued. The approximate date for distributing the assets of the estate is _____, ____.

7. I am holding from funds, credits or indebtedness due the judgment debtor an administrative fee in the amount of \$ _____
8. ____ This account is owned in joint tenancy.
9. I will hold the above described moneys or other items in my possession until further direction from the judgment creditor.

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.
EXECUTED on _____, _____.

Garnishee

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: First Class Mail ____; FAX ____; EMAIL ____
Service by Sheriff ____; party ____; party's attorney ____

ANSWER OF GARNISHEE
(To Attach Other Than Earnings)

To be completed by the above named garnishee:

1. Read carefully the attached Instructions to Garnishee.
2. I was served with this garnishment on the ____ day of _____, ____.
3. I have not delivered to the judgment debtor any money or other intangible property belonging to him or her, other than earnings, since receiving the order of garnishment.
4. If I am a bank, savings and loan association, credit union or finance company, and I am holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by me pursuant to this order shall not exceed \$ _____.
5. **Money or Indebtedness Due.** I hold money or am indebted to the judgment debtor, other than for earnings, as of the date of this answer, in the following manner and amounts:

6. **To be answered by garnishee who is an executor or administrator of an estate.** I am an _____ of the estate of _____, containing funds or intangible property to which the judgment debtor is or may become entitled as a _____, and I understand that the order of garnishment has the effect of attaching and creating a first and prior lien on all such funds or intangible property to which the judgment debtor becomes entitled upon distribution to the estate and that I am prohibited from delivering to the judgment debtor any such funds or intangible property until further order of the Court from which the order of garnishment was issued. The approximate date for distributing the assets of the estate is _____, ____.

7. I am holding from funds, credits or indebtedness due the judgment debtor an administrative fee in the amount of \$ _____
8. ____ This account is owned in joint tenancy.
9. I will hold the above described moneys or other items in my possession until further direction from the judgment creditor.

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.
EXECUTED on _____, _____.

Garnishee

INSTRUCTIONS TO GARNISHEE
(To Attach Other Than Earnings)

You must complete the Answer form which accompanies these instructions within 10 days after the garnishment order is served on you. The Answer form covers two (2) types of property:

(1) **Money, funds, credits or other indebtedness you owe to the judgment debtor (other than earnings).** You must disclose on the Answer any money that you owe to the judgment debtor as of the date the order is served on you and any money that you owe to the judgment debtor up until the time you complete the Answer form.

(2) **Intangible property or funds of an estate in which the judgment debtor is a beneficiary under the estate.** If you are an executor or administrator of the estate, you must disclose the information about the estate required on the Answer form and not deliver to the judgment debtor any such intangible property or funds until further order of the Court from which the order of garnishment was issued.

If more than one of the categories above applies to you, then you must complete all sections of the Answer form which apply.

Earnings are defined as compensation for personal services, whether called wages, salary, commission, bonus or otherwise, which is paid to an employee. If the judgment debtor is an employee of yours, then the compensation you pay for personal services is earnings and you do not disclose this under category 1. If the judgment debtor works for you other than as an employee, such as under a contract or as a contractor, then the money you pay for the work is not earnings and you must disclose all of the money due the judgment debtor in category 1 above.

Joint Account. If you are a bank, savings and loan association, credit union or finance company and you hold funds or credits or are indebted to the judgment debtor on an account which the judgment debtor owns in joint tenancy with one or more individuals who are not subject to the garnishment, you shall withhold the entire amount sought by the garnishment. You shall not be liable to the joint owners if it is later determined that the judgment debtor does not own the funds.

Administrative Fee: From funds, credits or indebtedness due the judgment debtor, you may withhold and retain to defray your costs an administrative fee of \$10 for each garnishment order served on you that attaches funds, credits or indebtedness. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment, except that if the amount required to be withheld under the order for garnishment is greater than the amount of the funds, credits or indebtedness held by the garnishee, the fee shall be deducted from the amount withheld.

If you are a bank, savings and loan association, credit union or finance company, and are holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to the order shall not exceed the amount stated in the order.

The court shall direct the garnishee to pay to the court the amount that the garnishee is holding, as indicated by the answer, or a lesser amount as warranted, if:

- (1) The garnishment has attached to property other than earnings of the judgment debtor;
- (2) Ten days has passed since receipt of the answer of the garnishee by the court; and
- (3) No reply to the answer has been filed.

The court shall refund to the judgment debtor any overpayment of the claim. If you do not receive an order to pay within 60 days following the date your Answer is received by the court, you may release the funds or property you are holding pursuant to your Answer.

Sign and date the Answer form under penalty of perjury on the line provided at the bottom of the form and file it with the clerk of the district court at the following address:

Linn County District Court
PO Box 350
Mound City, KS 66056

Hold the money or property disclosed in the Answer form until you receive an order from the court which will instruct you how to pay the amount that you are holding as indicated by your Answer or such lesser amount as may be indicated in the order.

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

TO BE DELIVERED BY THE JUDGMENT CREDITOR TO THE JUDGMENT DEBTOR IN ANY REASONABLE MANNER IMMEDIATELY FOLLOWING SERVICE OF THE GARNISHMENT ORDER ON THE GARNISHEE.

NOTICE TO JUDGMENT DEBTOR
(Non-earnings garnishment)

You are hereby notified that the court has issued an order in the above case in favor of _____ (name and address of judgment creditor), the judgment creditor in this proceeding, directing that some of your money, property or credits now in the possession of _____ (name and address of garnishee), the garnishee in this proceeding, be used to satisfy your debt to the judgment creditor. This order was issued to enforce the judgment obtained by the judgment creditor against you in this case on _____ (date). This order prohibits the garnishee from releasing all or part of your money or property to you, and the court will order that this money or property be turned over to the judgment creditor unless it finds that there is some reason why this money or property should not be used to satisfy the judgment.

The law of Kansas and the United States provides that certain benefit payments cannot be taken from you to pay a debt, even if they are deposited in a bank, savings and loan, or credit union. Such payments are commonly referred to as exempt property. Examples of exempt benefit payments which cannot be attached or executed upon by a creditor are:

- (1) Social Security disability and retirement benefits;
- (2) Supplemental Security Income (SSI) benefits;
- (3) Veteran's benefits;
- (4) Black lung benefits;
- (5) Cash assistance payments under the Temporary Assistance for Families (TAF) program;
- (6) Cash assistance payments under the General Assistance (GA) program;
- (7) Unemployment compensation payments;
- (8) Workers compensation payments;
- (9) Certain pension benefits and retirement funds, including KPERS.

This is not an exclusive list. Other state and federal exemptions may apply to you. Certain exemptions may not apply to support orders or to back taxes. An attorney can assist you in determining which benefit payments are exempt.

If the court order affects property other than money which belongs to you, some or all of this property may also be exempt. Examples of exempt personal property are:

- (1) Furnishings, equipment and supplies in your possession and reasonably necessary at your principal residence;
- (2) Personal jewelry and other ornaments up to \$1,000 in value;
- (3) One vehicle regularly used for transportation up to \$20,000 in value;
- (4) Tools and equipment used in your principal trade or business up to \$7,500 in value.

If you believe that the money or property being held by the garnishee is exempt and should not be given to the judgment creditor, you may request a hearing before the court to assert this claim. In order to request a hearing, you should fill out the form at the bottom of this notice and obtain from the clerk of the court or the court a date and time for the hearing, and file the form with the clerk of the court at (address of court). Immediately after the request for hearing is filed, you shall hand deliver a copy of the request for hearing to the judgment creditor or judgment creditor's attorney, if judgment creditor is represented by an attorney, or mail a copy of the request for hearing to the judgment creditor or judgment creditor's attorney, if judgment creditor is represented by an attorney, by first-class mail at the judgment creditor's, or judgment creditor's attorney's, last known address. You should ask for this hearing as soon as possible, but no later than 10 days after this notice is served on you. If you ask for a hearing to claim that your money or property is exempt, the court will hold a hearing within 10 days after it receives your request. At the hearing you should present any evidence you have to show that your money or property is exempt. The burden is on you to prove that some or all of your property subject to the garnishment is exempt. You may wish to consult an attorney to represent you at this hearing.

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

RELEASE OF GARNISHMENT

The judgment creditor hereby releases the garnishment order issued on or about _____ in this action.

Date: _____

Judgment Debtor

CERTIFICATE OF MAILING

I delivered a copy of the Release of Garnishment to the Garnishee and the judgment debtor at the above addresses by personal service or first-class mail (circle one) on the above date.

Judgment Debtor

Prepared by
Address
Address
Phone No.

In The District Court of **County, Kansas**
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

SATISFACTION OF JUDGMENT

The judgment in this matter is fully satisfied as the following party
(ies): _____

Date: _____

Judgment Debtor or Attorney

CERTIFICATE OF MAILING

I delivered a copy of the Release of Garnishment to the Garnishee and the judgment debtor at the above addresses by personal service or first-class mail (circle one) on the above date.

Judgment Debtor or Attorney

Prepared by
Address
Address
Phone No.

In The District Court of County, Kansas
Case Number _____

Judgment Creditor _____

Vs

Judgment Debtor _____
Address _____
Address _____

Garnishee _____
Address _____
Address _____
County _____
FAX No. _____

Pursuant to Chapter 61 of Kansas Statutes Annotated

Type of Service Requested: _____ by _____

ORDER TO PAY MONEY TO COURT

With regard to the Order of Garnishment dated _____, _____, the Garnishee, _____, is hereby ordered to pay to the clerk of this court the sum of \$ _____. Said Garnishee shall be discharged from liability to said defendant for money so paid. If the amount to be paid is less than the amount the Garnishee is holding pursuant to the garnishment, the Garnishee shall promptly release the balance to the defendant.

The garnishee shall make its check payable to and mail to:

Linn County District Court
PO Box 350
Mound City, KS 66056

Dated: _____.

Signature, Judge

Approved:

Judgment Creditor or Attorney Signature